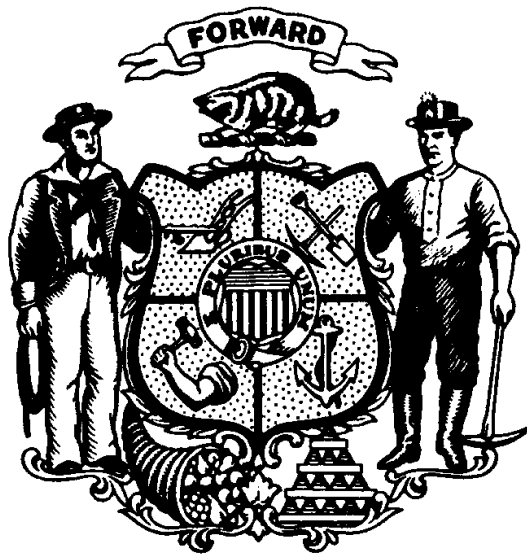


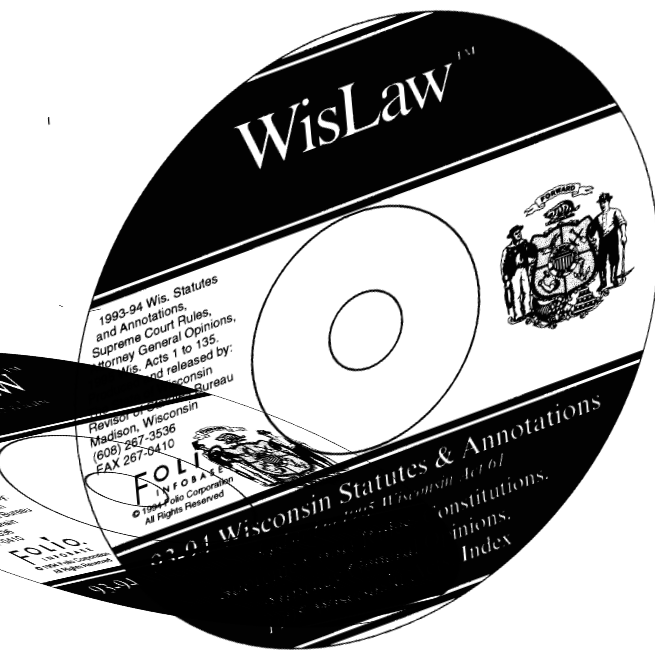
WISCONSIN ADMINISTRATIVE REGISTER

No. 490



Publication Date: October 31, 1996
Effective Date: November 1, 1996

REVISOR OF STATUTES BUREAU
SUITE 800, 131 WEST WILSON STREET
MADISON, WISCONSIN 53703-3233



WisLaw™

Wisconsin Statutes & Annotations, Session Laws, and other legal research material on CD-ROM

The May 2, 1996 release of *WisLaw™* is now available in both DOS and Windows. The CD-ROM includes the 1993-94 Wisconsin Statutes and Annotations (updated to 1995 Wisconsin Act 226), 1995 Wisconsin Acts 1 to 469, and other legal research materials.

WisLaw™, the computer-searchable CD-ROM, may now be ordered in both the DOS and Windows version of Folio PreViews search and retrieval software. The May 2, 1996 release of *WisLaw™* includes the **1993-94 Wisconsin Statutes and Annotations, Supreme Court Rules**, and recent **Opinions of the Attorney General**. The **1995 Wisconsin Acts** 1 to 469, with hypertext links to the affected statutes, are included on *WisLaw™*.

WisLaw™ is only available by subscription for 12-month periods; the number of CDs to be released in any 12-month period is indeterminate. *WisLaw™* End-user license and subscription order forms are available at Document Sales in Madison, WI (608) 266-3358. A 12-month subscription plus a license for no more than one simultaneous user costs \$99. A 12-month subscription plus a license for no more than 4 simultaneous users costs \$149. A 12-month subscription plus a license for no more than 10 simultaneous users costs \$199. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

Document Sales accepts credit card orders. Payments by check, money order, or credit card should be made payable to *Wisconsin Department of Administration* and mailed to Document Sales, P.O. Box 7840, Madison, Wisconsin 53707-7840. Telephone 1-800-362-7253.

Prior releases of *WisLaw™* are still available; these CDs provide the end-user with research capabilities that are available nowhere else. No on-line statutory research and retrieval system permits the researcher to examine past versions of the Statutes. In many instances, the facts of the researcher's case arose under and are governed by statutes which are no longer current. *WisLaw™* end-users can select the appropriate *WisLaw™* release, insert it into a CD reader, and enjoy sophisticated search and retrieval capabilities in searching the statutes in effect when the facts of the case arose. Prior releases of *WisLaw™* may be licensed for the discounted single simultaneous-user license fee of \$30.00. Supplies are limited.

TABLE OF CONTENTS

Emergency Rules Now In Effect.**Pages 5 to 15.**

Agriculture, Trade & Consumer Protection:

Rules relating to animal health.
 Rule adopted creating s. ATCP 139.04 (11), relating to prohibiting certain gaseous hydrocarbons in mobile air conditioners. **[FIRST APPEARANCE]**

Corrections:

Rule relating to inmate mail.

Health & Family Services:

Community Services, Chs. HSS 30—

Rules relating to administration of child care funds.

Rules relating to child care providers certification.

Rule relating to child care funds and copayments.

Health & Family Services:

Medical Assistance, Chs. HSS 100—

Rules relating to coverage of school-based medical services.

Health & Family Services:

Health, Chs. HSS 110—

Rules relating to permit fees.

Rules relating to public swimming pools.

Rules relating to fees.

Health & Family Services (Workforce Development):

Economic Support, Chs. HSS 200—

Rules relating to time limits on benefits for AFDC recipients in the Job Opportunities and Basic Skills (JOBS) program.

Industry, Labor & Human Relations (Commerce):

Uniform Dwellings, Chs. ILHR 20–25

Rules relating to dwellings constructed in flood hazard zones.

Industry, Labor & Human Relations (Commerce):

Building & Heating, etc., Chs. ILHR 50–64Multi-Family Dwelling, Ch. ILHR 66

Rules delaying energy efficiency revision to chs. ILHR 50–64 and 66.

Industry, Labor & Human Relations (Workforce Development):

Labor Standards, Chs. ILHR 270–279

Rules relating to the minimum wage.

Insurance, Commissioner of:

Rules relating to premium rates for the Health Insurance Risk-Sharing Plan (HIRSP).

Natural Resources:

Fish, Game, etc., Chs. NR 1–

Rules relating to size and bag limits for Lac du Flambeau reservation.

Rules relating to the 1996 deer hunting season.

Rules relating to fishing for yellow perch in Lake Michigan.

Rules relating to the 1996 deer hunting season.

Rules relating to the 1996 migratory game bird season.

Rules relating to fishing for yellow perch in Lake Michigan.

Public Instruction:

Rules relating to dispute resolution concerning children with exceptional educational needs (EEN).

Rules relating to the handicapping condition of significant developmental delay.

Securities (Financial Institutions):

Rules relating to alternative accounting guidelines for certain financial statements.

Transportation:

Rules relating to transportation of garbage or refuse permits.

Scope Statements.

Chiropractic Examining Board:

Commerce:

Transportation:

Workforce Development:

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse.

Agriculture, Trade and Consumer Protection:

Corrections:

Hearing and Speech Examining Board:

Medical Examining Board:

Natural Resources:

Natural Resources:

Notice Section.

Agriculture, Trade and Consumer Protection:

Natural Resources:

Natural Resources:

Notice of Submission of Proposed Rules to the Presiding Officer of each House of the Legislature, Under S. 227.19, Stats.

Commerce:

Commerce:

Pages 17 to 18.

Chir Code – Relating to continuing education requirements for chiropractors and approval of chiropractic continuing education sponsors and programs.

Ch. ILHR 27 – Relating to pier installation for manufactured homes.

Ch. Trans 76 – Relating to local transportation aids.

Ch. DWD 272 – Relating to the minimum wage.

Pages 19 to 20.

Ch. ATPC 143 – Relating to the corn marketing order.

S. DOC 313.025 – Relating to defining the meaning of “prison industry” as used in s. 303.01 (1) (c), Stats.

SS. HAS 4.03, 5.02, 6.02, 6.065 and 6.09 – Relating to calibration of audiometric equipment and the use of support personnel.

Ch. Med 13 (title), and ss. Med 13.01, 13.02, 13.03, 13.04, 13.05 and 13.06 – Relating to continuing medical education for podiatrists.

Chs. NR 10 and 11 – Relating to sharp-tailed grouse hunting.

Chs. NR 25 – Relating to commercial fishing for chubs and whitefish in Lake Michigan and Green Bay.

Pages 21 to 25.

Hearing to consider s. ATPC 139.04 (11) created as an emergency rule, relating to prohibiting certain flammable refrigerants for use in mobile air conditioning systems.

Hearings to consider revision of ch. ATPC 143, relating to the corn marketing order.

Fish, Game, etc., Chs. NR 1—

Hearings to consider revision to ss. NR 10.01, 10.26 and 11.08, relating to sharp-tailed grouse hunting.

Hearing to consider an emergency rule, relating to commercial fishing for yellow perch in Lake Michigan.

Hearing to consider revision to ch. NR 25, relating to commercial fishing for whitefish and chubs in Green Bay and Lake Michigan.

Environmental Protection—Air Pollution Control.**Chs. NR 400—****Environmental Protection—Solid and Hazardous Waste.****Chs. NR 500—****Environmental Protection—Investigation and Remediation of Environmental Contamination, Chs. NR 700—**

Hearings to consider revision to chs. NR 419, 518 and 718, relating to remediation of soil contamination through landspreading.

Page 26.

(CR 95–69) – Ch. ILHR 202

(CR 96–63) – Chs. ILHR 82 and 84

Commerce:	(CR 96-100) – Chs. ILHR 20 and 21
Health and Family Services:	(CR 96-93) – SS. HSS 172.04, 175.04, 178.05, 195.04, 196.04, 197.04 and 198.04
Health and Family Services:	(CR 96-119) – SS. HSS 172.03 and 172.05
Natural Resources:	(CR 96-85) – Chs. NR 19, 21 and 22
Natural Resources:	(CR 96-112) – SS. NR 20.03, 20.036, 20.13 and 20.18
Natural Resources:	(CR 96-114) – SS. NR 20.02 and 25.05
Natural Resources:	(CR 96-116) – S. NR 20.08
Psychology Examining Board:	(CR 96-123) – SS. Psy 2.01, 2.015, 2.05 and 3.01
Public Instruction:	(CR 96-111) – SS. PI 11.02 (23) and 11.35
Public Instruction:	(CR 96-121) – Ch. PI 11
Securities, Commissioner of [Financial Institutions]:	(CR 96-143) – Chs. SEC 2, 3, 4, 5, 32, 33, 35 & 37 and ss. SEC 7.06, 9.01, 31.01 & 34.01
Transportation:	(CR 96-70) – S. Trans 139.05 (8)

Administrative Rules Filed With the Revisor of Statutes Bureau.

Page 27.

Agriculture, Trade & Consumer Protection:	(CR 96-2) – S. ATCP 3.02 and ch. ATCP 50
Natural Resources:	(CR 96-23) – SS. NR 20.015, 20.03 and 21.04
Regulation and Licensing:	(CR 96-33) – S. RL 120.02 (intro.) and ch. RL 128
Social Workers, Marriage & Family Therapists and Professional Counselors Examining Board:	(CR 96-34) – SS. SFC 2.01 (5) and 3.13

Rules Published in this Wis Adm. Register.

Page 28.

Agriculture, Trade & Consumer Protection:	(CR 95-97) – Chs. ATCP 88 and 89
Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board:	(CR 96-49) – SS. A-E 3.05, 4.08, 5.04, 6.05, 9.05 and 10.05
Barbering and Cosmetology Examining Board:	(CR 96-1) – S. BC 3.03 (5)
Commerce:	(CR 95-228) – Chs. ILHR 2, 5, 7, 9, 10, 11, 17, 20, 26, 34, 41, 42, 45, 48, 50, 51, 66, 68, 74 & 81 and ss. ILHR 18.13, 27.20, 53.53, 67.07 & 82.21
Medical Examining Board:	(CR 96-47) – Ch. Med 8
Natural Resources:	(CR 95-99) – S. NR 46.30 (2) (a) to (c)
Natural Resources:	(CR 96-18) – Chs. NR 140, 724 & 726 and ss. NR 700.03 & 722.07
Nursing, Board of:	(CR 95-187) – S. N 8.08
Revenue:	(CR 96-53) – S. Tax 11.69
Revenue:	(CR 96-56) – S. Tax 2.47
Savings Institutions, Division of [Financial Institutions]:	(CR 96-64) – S. SB 3.06 (1) (e)
Savings Institutions, Division of [Financial Institutions]:	(CR 96-66) – S. SB 3.08 (4) (e)
Transportation:	(CR 96-110) – S. Trans 102.22
Workforce Development:	(CR 96-36) – Chs. HSS 201 and 206

Final Regulatory Flexibility Analyses.

Pages 29 to 31.

1. Agriculture, Trade & Consumer Protection:	(CR 95-97) – Chs. ATCP 88 and 89
--	----------------------------------

2. Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board:

(CR 96-49) – SS. A-E 3.05, 4.08, 5.04, 6.05, 9.05 and 10.05

3. Barbering and Cosmetology Examining Board:

(CR 96-1) – S. BC 3.03 (5)

4. Commerce:

(CR 95-228) – Chs. ILHR 2, 5, 7, 9, 10, 11, 17, 20, 26, 34, 41, 42, 45, 48, 50, 51, 66, 68, 74 & 81 and ss. ILHR 18.13, 27.20, 53.53, 67.07 & 82.21

5. Medical Examining Board:

(CR 96-47) – Ch. Med 8

6. Natural Resources:

(CR 96-18) – Chs. NR 140, 724 & 726 and ss. NR 700.03 & 722.07

7. Natural Resources:

(CR 96-84) – Ch. NR 46

8. Nursing, Board of:

(CR 95-187) – S. N 8.08

9. Revenue:

(CR 96-53) – S. Tax 11.69

10. Revenue:

(CR 96-56) – S. Tax 2.47

11. Savings Institutions, Division of [Financial Institutions]:

(CR 96-64) – S. SB 3.06 (1) (e)

12. Savings Institutions, Division of [Financial Institutions]:

(CR 96-66) – S. SB 3.08 (4) (e)

13. Transportation:

(CR 96-110) – S. Trans 102.22

14. Workforce Development:

(CR 96-36) – Chs. HSS 201 and 206

Executive Orders.

Executive Order 298.

Page 32.

Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Spiro T. Agnew, Former Vice President of the United States.

Executive Order 299.

Relating to the Transfer of the Neurointerventional Angiography Program to the University of Wisconsin Hospitals and Clinics Authority.

Notice of Nonacquiescence.

Revenue:

Page 33.

Tax Appeals Commission

Royal Terrace Partnership v. Wis. Dept. of Revenue

EMERGENCY RULES NOW IN EFFECT

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

EMERGENCY RULES NOW IN EFFECT (2)

Department of Agriculture, Trade & Consumer Protection

1. Rules adopted revising **chs. ATP 10 to 12**, relating to animal health.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection ("department") finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) 1995 Wis. Act 79 was published December 8, 1995. Under its provisions, no person may keep farm-raised deer in Wisconsin after June 1, 1996, unless that person is registered with the department.

(2) 1995 Wis. Act 79 requires the department to adopt rules which specify the fee for registration. In addition, rules are necessary to establish the mechanism for registration.

(3) Prior to 1995 Wis. Act 79, persons who kept farm-raised deer were required to be licensed by the department of natural resources (DNR). Many persons who keep farm-raised deer will have become licensed with DNR for calendar year 1996. Those licenses will be transferred to the department as registrations.

(4) Permanent rules implementing 1995 Wis. Act 79 will not take effect until on or about January 1, 1997. This emergency rule establishes an interim procedure for registering herds of farm-raised deer, pending the effective date of the permanent rules. Without this emergency rule, no person would be able to start a farm-raised deer herd in Wisconsin between June 1, 1996, and the effective date of the permanent rules, because there would be no way to register that herd.

(5) 1995 Wis. Act 79 also requires animal owners to provide a means of testing those animals for tuberculosis without endangering the animal or the person performing the test. In addition, a

non-statutory provision of that Act requires all keepers of farm-raised deer to have the deer tested for tuberculosis between December 8, 1995, and June 30, 1997.

(7) Concerns for the safety of farm-raised deer during testing prohibit testing during significant periods of the year. For example, deer should not be tested during the birthing season, the rut season and the season in which the animals are in velvet. Therefore testing is restricted to periods in late August to early October or during January and February.

(8) The department anticipates that many keepers of farm-raised deer will perform their testing in July, August or September of 1996, before a permanent rule can be adopted. This emergency rule establishes three alternative ways in which the animal owner can insure the safety of the persons doing the testing. This is necessary to insure the safety of the person conducting the test and to permit the keeper of farm-raised deer to know what constitutes adequate restraint of the animals.

(9) In September, 1995, the United States department of agriculture adopted new regulations relating to identification and slaughter shipment of bovines or cervidae which are reactors or suspects for bovine tuberculosis. Wisconsin's current administrative rules are in conflict with the current federal regulations. This emergency rule will make Wisconsin's rules consistent with the federal regulations, so that persons who comply with federal law will not be placed in violation of state law.

(10) In March 1996, the department was advised by the United States department of agriculture that the Russian federation intends to prohibit shipment of poultry meat into the Russian federation from any state which does not require veterinarians to report the presence of specific poultry diseases to the state animal health agency. Wisconsin's current administrative rules do not require reporting of 5 of the diseases which concern the Russian federation.

(11) Wisconsin poultry producers ship poultry meat valued in excess of \$1 million per year to the Russian federation. By adopting a provision requiring veterinarians to report the existence of 5 diseases to the department, the department will protect the poultry producers' export market in the Russian federation. The department has proposed a permanent rule requiring reporting of the diseases. This emergency rule protects the export market during the period before the permanent rule is effective.

Publication Date: June 3, 1996

Effective Date: June 3, 1996

Expiration Date: October 31, 1996

2. Rule adopted creating **s. ATP 139.04 (11)**, relating to prohibiting the sale of butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons for use as refrigerants in mobile air conditioners.

Finding of Emergency

(1) On June 2, 1995, the United States Environmental Protection Agency ("EPA") issued a final rule prohibiting the use of HC-12a, a hydrocarbon-based refrigerant containing liquified petroleum gas, as a refrigerant in mobile air conditioning systems. EPA prohibited HC-12a, and a predecessor product called OZ-12, because of safety risks associated with the use of flammable refrigerants in mobile air conditioning systems. According to EPA, the manufacturer of HC-12a did not provide adequate information to demonstrate that the product was safe when used in a mobile air conditioning system.

(2) Despite the current EPA rule, at least one company is currently engaged in manufacturing and distributing HC-12a for use in motor vehicle air conditioning systems. The Idaho

manufacturer argues that EPA lacks jurisdiction to regulate the sale of its product. HC-12a is currently being offered, distributed or promoted for sale at wholesale and retail outlets in Wisconsin and surrounding states, for use as a refrigerant in mobile air conditioning systems.

(3) HC-12a is a highly flammable substance, as defined by the American Society of Testing and Materials (ASTM) standard test procedure for refrigerants, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), and Underwriter's Laboratories. Use of HC-12a or its predecessor, OZ-12, in mobile air conditioning systems is inconsistent with standards adopted by the Society of Automotive Engineers. According to those standards, refrigerants used in mobile air conditioning systems must be of low toxicity, and must be nonflammable and nonexplosive.

(4) At least 13 states have enacted legislation prohibiting the sale of refrigerants for use in air conditioning or refrigeration systems unless those refrigerants meet flammability standards or are specifically approved for their intended use.

(5) HC-12a and other hydrocarbon-based refrigerants, when sold for use in motor vehicle air conditioning systems, present a serious risk to public health and safety for the following reasons:

(a) Motor vehicles and mobile air conditioning systems are not currently designed to use flammable refrigerants, or to prevent hazards associated with flammable refrigerants.

(b) Refrigerants in mobile air conditioning systems commonly leak into the engine compartments or passenger compartments of motor vehicles. Leaking refrigerant is often routed into the passenger compartment through the air distribution system from the evaporator. Hydrocarbon refrigerants, which are heavier than air, will tend to accumulate in low or confined spaces of a motor vehicle.

(c) Hydrocarbon refrigerants are flammable at low concentrations.

(d) Internal components of a motor vehicle provide many potential sources of ignition for flammable refrigerants. Passenger activities, such as smoking, may also create ignition sources.

(e) Fires or explosions resulting from the ignition of leaked flammable refrigerant may cause serious bodily injury or death to motor vehicle passengers. Automotive technicians who test for leaks, or who repair or service mobile air conditioning systems containing flammable refrigerants, are also at risk.

(6) The risk to public health and safety cannot be adequately addressed by product packaging or labeling, for the following reasons:

(a) The use of flammable hydrocarbon-based products in motor vehicle air conditioning systems is inherently hazardous. That hazard will not be materially altered by mere packaging or labeling.

(b) Use is hazardous to persons who are not aware that the refrigerant is present, and have not have seen or read the product label.

(c) Current product labels for HC-12a already contain a warning statement that the contents are under pressure and are extremely flammable. Current labels direct use by qualified personnel only, and list other cautions and instructions when recharging a mobile air conditioning system with this substitute refrigerant. These label statements do not materially alter the hazard inherent in the use for which the product is sold. There are few if any protective actions which a customer or technician could take to reduce the hazards associated with use of the product.

(d) There are no automotive industry standards which would allow a flammable refrigerant to be used in a motor vehicle air conditioning system as currently designed.

(7) Flammable hydrocarbon-based refrigerants, including HC-12a, OZ-12, and other refrigerants containing butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons, pose a serious risk to public health and safety when sold for use as refrigerants in mobile air conditioners. At this time, the public health and safety can only be protected by keeping these products out of the channels of commerce in this state. The department can

and should adopt rules, under ss. 93.07(1) and 100.37(2), Stats., prohibiting the sale of such products in this state.

(8) Pending the adoption of rules according normal administrative rulemaking procedures, it is necessary to adopt emergency rules under s. 227.24, Stats., to protect the public health, safety and welfare.

Publication Date: October 9, 1996
Effective Date: October 9, 1996
Expiration Date: March 8, 1997
Hearing Date: November 15, 1996
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules adopted creating s. DOC 309.05 (2)(d), relating to inmate mail.

Finding of Emergency

The Department of Corrections finds an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

Wisconsin state prison inmates outgoing mail is generally not reviewed or censored. Inmates have used mail to:

1. Contact the victims of their crimes, which has caused severe emotional distress;
2. Threaten and harass elected officials, law enforcement officers, and other persons; and
3. Defraud mail order and other businesses.

Since November 1, 1993, pursuant to Internal Management Procedure #35, the department has stamped outgoing inmate mail to indicate that the mail was sent from the Wisconsin state prison system. IMP #35 was adopted to protect victims of crime, the public, and businesses from inmate harassment and fraud.

The Wisconsin Court of Appeals ruled in an unpublished decision that IMP #35 had to be promulgated as an administrative rule.

In order to protect the public welfare of the state, it is necessary for the department to adopt the following emergency rule to ensure that victims of crime are not further victimized by inmate mail, that members of the public are not threatened or harassed, and that businesses are not defrauded.

Publication Date: August 15, 1996
Effective Date: August 15, 1996
Expiration Date: January 12, 1997

EMERGENCY RULES NOW IN EFFECT (3)

Health and Social Services

(Community Services, Chs. HSS 30---)

1. Rules were adopted revising ss. HSS 55.70 to 55.76, relating to administration of child care funds.

Exemption From Finding of Emergency

The Legislature in s. 275 (2) of 1995 Wis. Act 289 directed the Department to promulgate rules relating to public assistance required under chs. 46, 48 and 49, Stats., as affected by the Acts of 1995, before July 1, 1996, for the period before permanent rules take

effect, by using emergency rulemaking procedures but without having to make a finding of emergency. These are public assistance-related rules. They are for administration of health care funds. They will take effect on July 1, 1996.

Analysis

The Department's rules for county agency, tribal agency and other child care administrative agency administration of funds for child day care under s. 46.98, Stats., are revised by this order to bring the rules into compliance with statute changes made by 1995 Wis. Acts 27 and 289 and changes in federal regulations, including federal regulations for child care and development block grant funding, 45 CFR Parts 98 and 99, and at-risk child care, 45 CFR Part 257, since the rules were last revised in late 1991; to made policies relating to eligibility for low-income child care more like child care eligibility policies under the Job Opportunities and Basic Skills (JOBS) training program under 42 USC 682 and s. 49.193, Stats.; to prevent and deal with fraud; and to clarify the applicability of certain policies.

Key changes are the following:

1. Income Eligibility

Income eligibility for low income child care is changed to be in compliance with changes made in s. 46.98 (4), Stats., by Act 289.

2. Costs Charged to Parents

Parent co-payment responsibilities are revised to be those established in state law based on family income and the cost of care.

3. Eligibility for Parents in Training or Educational Programs

Parent eligibility to received low-income child care funds when the parents are in training or educational programs is modified so that only parents under 20 years of age enrolled in high school or an equivalent program are eligible, in compliance with Act 289 changes in the statutes.

4. Loss of Eligibility

A local agency is permitted to determine that a parent is no longer eligible for child care funds if the parent fails to make required co-payments or provides false information to the agency about income or other matters affecting eligibility.

5. Recovery of Funds

Rules are added in compliance with 1995 Wis. Act 27 to provide for recovery of funds from a parent if the parent was not eligible for child care funds, and for recovery of an overpayment made to a provider when the provider is responsible for the overpayment.

6. Reimbursement

Local agencies are permitted to reimburse parents under certain circumstances for the cost of health care services or to make funds available to parents for the purchase of child care services, and local agencies are directed when to reimburse child care providers on the basis of authorized units of service or for days of attendance.

7. Authorized Child Care Providers

Local agencies are permitted to make payments, under certain conditions, to child care providers who are not licensed or certified, including:

a. When an AFDC recipient is involved in orientation, enrollment or initial assessment in the JOBS program.

b. When child care is on-site and short-term for parents in training or education programs.

c. When short-term care is needed for a child who is ill and not allowed to receive care from a regulated provider.

8. Higher Rates for Higher Quality Care

Local agencies are required to pay higher for child care to providers who meet higher quality of care standards, as allowed under federal regulations.

9. Reimbursement Rate Categories

Reimbursement rates are required to two age categories and five provider types, a change from earlier policy.

10. Elimination of Rules for Respite Child Care

Rules for respite child care are eliminated, now that there is no longer a separate fund program. The 1995-97 state budget folded funding for respite child care into general community aids allocations for counties.

Publication Date: June 29, 1996

Effective Date: July 1, 1996

Expiration Date: November 28, 1996

2. Rules adopted revising ss. HSS 55.55 to 55.63, relating to certification of child care providers.

Exemption From Finding of Emergency

The Legislature in s. 275 (2) of 1995 Wis. Act 289 directed the Department to promulgate rules relating to public assistance required under chs. 46, 48 and 49, Stats., as affected by the Acts of 1995, before July 1, 1996, for the period before permanent rules take effect, by using emergency rulemaking procedures but without having to make a finding of emergency. These are public assistance-related rules. They are for certified child care. They will take effect on July 1, 1996.

Analysis

The Department's current rules for certification of family day care providers, in-home day care providers and school-age day care programs are amended by this order to bring the rules into compliance with recent statute changes, in particular the changes made by 1995 Wis. Act 289 in establishing Wisconsin Works (W-2), a new system of assistance for families with dependent children which will replace Aid to Families with Dependent Children (AFDC), and to add needed protections for children, reduce or eliminate unnecessary requirements and clarify the authority of certifying agencies.

Key changes include:

1. Provisional Certification

Modifying standards for provisional certification so that no training is required, in compliance with Act 289 changes in the statutes.

2. Limited Certification

Deleting the category of limited certification, in compliance with Act 289 changes in the statutes.

3. Training for Regular Certification

Deleting the optional requirement to add 5 hours of initial training for regular certification, in order to standardize regulation statewide.

4. Criminal Records Check

Adding requirements for state criminal records checks and FBI criminal record check under certain circumstances, as required by Act 289 changes in the statutes.

5. Certification Fee

Permitting counties and tribal agencies to charge certification fees, as allowed under Act 289, not to exceed licensing fees for family day care centers plus the cost of criminal record checks.

6. Acceptance of Certification

Providing that certification issued by one certifying agency is to be accepted as valid by other certifying agencies.

7. Certification Exemption

Exempting specified child care arrangements from certification because those arrangements are short-term.

8. Sanction Authority

Giving sanction authority to certifying agencies when there is danger to the health, safety or welfare of children in care.

9. School-Age Programs

Adding requirements related to swimming pools and water safety.

Adding requirements for the safety of vehicles transporting children.

Deleting requirements for:

- a. Physical exams for children and staff (replaced by a health history requirement).
- b. 75 square feet of outdoor space per child.
- c. Daily outdoor activities.
- d. A place for rest or relaxation.
- e. Ongoing communication with the child's parent.
- f. Making copies of the certification standards available to all parents.

10. Parochial and Private Schools

Deleting rules related to certification of parochial and private schools since those programs can become licensed in order to receive public child care funding.

11. Parent Checklist

Deleting the rules requirement that parents in certified family day care and in-home day care complete and return a checklist of basic certification standards but permitting counties and tribes to continue to require it.

12. Other New or Changed Rules

- a. Clarifying what is acceptable supervision and limiting the number of hours a provider can provide child care per day.
- b. Requiring TB tests for all certified providers.
- c. Requiring proper hand washing for child care providers and children.
- d. Changing the water testing requirement when a public water supply is not available to be a one-time test prior to or within 3 months of initial certification.
- e. Requiring certified providers to report relevant information to the certifying agency.
- f. Prohibiting consumption of alcoholic beverages or controlled substances on the premises during hours of operation.
- g. Prohibiting discrimination.

Publication Date: June 29, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996

3. Rules adopted repealing s. HSS 55.76 (5), created as an emergency rule relating to the administration of child care funds and required co-payments.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

Congress has just enacted welfare reform legislation which makes major changes to the federal welfare system, in many cases replacing federal entitlements with block grants to the states. The Governor has directed the creation of a Child Care Working Group to analyze the impact that the federal legislation will have on child care in Wisconsin and on the Wisconsin works program, and to analyze and identify effective methods and funding sources to increase child care options and expand the availability of affordable child care. Under these circumstances, it is necessary to withdraw the schedule for child care co-payments and the phase-in co-payment formula which were implemented by emergency rule on July 1 of this year. This will avoid the administrative problems

and costs that would otherwise be incurred if these rules are changed again as a result of the new federal law.

Publication Date: August 13, 1996
Effective Date: August 13, 1996
Expiration Date: January 10, 1997

EMERGENCY RULES NOW IN EFFECT

Health and Social Services

(Medical Assistance, Chs. HSS 100--)

Rules adopted revising chs. HSS 101, 105 and 107, relating to Medical Assistance coverage of school-based medical services.

Exemption From Finding of Emergency

The Legislature in s. 9126 (7m) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 49.45 (39), Stats., as created by Act 27, by using emergency rulemaking procedures, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

Analysis

The 1995-97 Budget Act, 1995 Wis. Act 27, created s. 49.45 (39), Stats., which requires the Department of Health and Social Services to reimburse school districts and Cooperative Educational Service Agencies (CESAs) for Medical Assistance school-based services. This rule-making order describes the covered services: speech, language, audiology and hearing services; occupational therapy; physical therapy; nursing services; psychological services, counseling and social work; developmental testing and assessments; transportation; and certain durable medical equipment. The order also explains the recordkeeping collaboration with other health care providers required of school-based service providers.

Publication Date: June 15, 1996
Effective Date: June 15, 1996
Expiration Date: November 12, 1996

EMERGENCY RULES NOW IN EFFECT (3)

Health and Social Services

(Health, Chs. HSS 110--)

1. Rules adopted revising chs. HSS 172, 175, 178, 195 to 198, relating to permits and permit fees.

Finding of Emergency

The Department of Health & Social Services finds that an emergency exists and that the adoption of the rules is necessary for the immediate preservation of the public, peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department and agent local government health departments regulate campgrounds, camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations, under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with health, sanitation and safety standards established by the Department by rule. The Department's rules are in chs. HSS 172, 175, 178, 195, 196, 197 and 198, Wis. Adm. Code. None of these facilities may operate without receiving a permit from the Department or an agent local

government health department. A permit is evidence that a facility complies with the Department's rules on the date of issuance of the permit. All permits except those for bed and breakfast establishments are one-year permits. A facility is charged a permit fee. Permit fee revenues support the regulatory program.

In 1993 the Budget Act for 1993-95 directed the Department to establish permit fees by rule beginning July 1, 1994. Until then the fees had been set by statute.

This rulemaking order increases permit fees effective July 1, 1996, by about 10% for campgrounds; recreational and educational camps; swimming pools that serve the public; restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending operators and commissaries. It also increases preinspection fees for restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending commissaries.

The fees are increased to cover higher costs for these regulatory programs.

The rules are being promulgated as emergency rules to protect public health and safety. The fee increases will take effect on July 1, 1996, which is the beginning of a new permit period. Raising the fees as provided in this order will enable the Department to avoid running a deficit in program revenue and so avoid having to reduce inspections of food-serving, lodging and recreational facilities and taking longer to respond to foodborne and waterborne disease outbreaks.

The fees established by this order do not apply to facilities regulated by local health departments granted agent status under s. 254.69, Stats. Permit fees for those facilities are established by the local health departments, pursuant to s. 254.69 (2) (d), Stats.

Publication Date: June 8, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Hearing Date: August 28, 1996

2. Rules adopted revising **ch. HSS 172**, relating to public swimming pools.

Finding of Emergency

The Department of Health and Social Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department and agent local government health departments regulate the operation of public swimming pools under the authority of s. 257.47, Stats, to ensure that these facilities comply with health, sanitation and safety standards established by the Department by rule. The Department rules are in ch. HSS 172, Wis. Adm. Code. No public swimming pool may operate without having a permit from the Department or an agent local government health department.

This rulemaking order clarifies and updates the definition of public swimming pool, updates requirements for lifeguards and adds rescue tubes as required lifeguard equipment.

Section 254.47 (1), Stats., directs the Department to define "public swimming pool," in rule, for purposes of the regulatory program. The current rule definition has not been changes for many years and has some resulting ambiguity, one reason being that some types of facilities are called by new names.

The requirements under s. HSS 172.05 (2) (a)3. for lifeguard certification have to be modified due to changes in American Red Cross and the American Heart Association courses. The rules changes will ensure that all lifeguards are qualified to fulfill their duties as specified in ch. HSS 172. The exception under s. HSS 172.05 (2) (c) to lifeguard certification for persons holding a current American Red Cross Water Safety Instructor certificate is removed. This is because the American Red Cross Water Safety Instructor certification course no longer includes course work in lifesaving methods. The change, however, will allow persons currently

certified under the old program to the use of that certification until it expires.

New lifeguard training incorporates use of rescue tubes. These tubes are therefore made required equipment when lifeguards are provided.

These changes are needed to protect the health and assure the safety of persons using public swimming pools.

Publication Date: June 22, 1996
Effective Date: June 22, 1996
Expiration Date: November 19, 1996
Hearing Date: August 28, 1996

3. Rules adopted revising **chs. HSS 124, 132 and 134**, relating to fees for certain facility construction plans.

Finding of Emergency

The Department of Health & Social Services finds that an emergency exists and that the adoption of the rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Until the enactment of the State Budget for 1995-97, 1995 Wis. Act 27, construction plans for nursing homes, hospitals and facilities for the developmentally disabled (FDDs) were subject to review and approval by two state agencies. The Department of Industry, Labor and Human Relations (DILHR) reviewed the plans for conformance to the State Building Code, chs. ILHR 50-64. The Department of Health and Social Services (DHSS), the licensing agency, reviewed the plans for conformance to the Life Safety Code as adopted by reference in chs. HSS 124, 132 and 134. Act 27 provided for consolidation of plan review and approval responsibility in the Department of Health and Social Services effective October 1, 1995. On that date, DILHR's nursing home and hospital facilities construction plan review responsibility and functions were transferred to DHSS. The State Building Code, however, remained a DILHR responsibility because it applies to other buildings in addition in addition to those health care facilities.

Through this rulemaking order, the Department is establishing hospital, nursing home and FDD construction plan review fees that, as required by ss. 50.02 (2) (b) and 50.36 (2), Stats., as affected by Act 27, are less than the sum of the amount that were charged on September 30, 1995, by the Department for review under ch. 50, Stats., and by DILHR for review under ch. 101, Stats.

For the period October 1, 1995 through, at the latest, June 30, 1996, s. 9126 of Act 27 authorized the Department to collect fees for the new consolidated review of hospital, nursing home and FDD construction plans that were equal to the sum of the fees collectible on September 30, 1995, when the two state agencies were reviewing the plans separately. By July 1, 1996, the Department was expected to have the new fee schedule in effect in the form of administrative rules.

The Department is publishing these rules as emergency rules so that the Department can continue to collect the necessary fees revenue for consolidated review of hospital, nursing home and FDD construction plans which will enable the Department to continue consolidated review of those plans. Fee revenue supports plan review. Without provision in rule for collecting fees for review plans for compliance with the State Building Code, the Department cannot continue doing that review pending the promulgation of permanent rules. This would mean delay in approval given to projects, which could delay improvements in health care for hospitals, patients and nursing home and FDD residents. Proposed permanent rules will not take effect for several months because it has taken the Department a long time to develop the policies and procedures included in the rules and these had to be developed before the lengthy process for making permanent rules could begin.

Included in this order, in addition to fees for consolidated plan review, are amendments to the Department's rules for hospitals, nursing homes and FDDs that incorporate by reference the State Building Code and make clear that it is now the Department that

reviews hospital, nursing home and FDD construction plans for compliance with the State Building Code.

Publication Date: June 29, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Hearing Date: August 30, 1996

EMERGENCY RULES NOW IN EFFECT

Health & Social Services

(Economic Support, Chs. HSS 200-)

Rules adopted creating s. HSS 201.135, relating to time limits on benefits for AFDC recipients participating in the JOBS program.

Exemption From Finding of Emergency

The Legislature in s. 275 (3) of 1995 Wis. Act 289 directed the Department to promulgate the rule required under s. 49.145 (2) (n), Stats., as created by Wis. Act 289, by using emergency rulemaking procedures but without having to make a finding of emergency. The rule will take effect on October 1, 1996.

Analysis Prepared by the Department of Workforce Development

Under the Aid to Families with Dependent Children (AFDC) program an individual may apply and be determined eligible for AFDC benefits with no regard to whether the individual has received benefits in the past or the number of months an individual may have already received benefits. Wisconsin Works (W-2), the replacement program for AFDC, as created by 1995 Wis. Act 289, includes a provision limiting the amount of time an individual may receive AFDC benefits, W-2 employment position benefits or a combination thereof. Under s. 49.145 (2) (n), Stats., as created by 1995 Wis. Act 289, the total number of months in which an adult has actively participated in the Job Opportunities and Basic Skills (JOBS) program under s. 49.193, Stats., or has participated in a W-2 employment position or both may not exceed 60 months. The months need not be consecutive. Extensions to the 60 month time limit may be granted only in unusual circumstances in accordance with rules promulgated by the Department. Section 49.141 (2) (b), Stats., as created by 1995 Wis. Act 289, provides that if a federal waiver is granted or federal legislation is enacted, the Department may begin to implement the W-2 program no sooner than July 1, 1996. Participation in JOBS under s. 49.193, Stats., begins to count toward the 60-month limit beginning on October 1, 1996.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law by President Clinton on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which proves that a state may not use any part of the TANF grant to provide assistance to a family that includes an adult who has received assistance for 60 months, whether consecutive or not, under a state program funded by the TANF block grant. Wisconsin submitted its TANF Block Grant State Plan to the Federal Administration for Children and Families on August 22, 1996. The Department will implement time limits October 1, 1996, for AFDC recipients who are actively participating in the Job Opportunities and Basic Skills (JOBS) Training Program. Implementation of the time limits is part of the

continuing transition from AFDC to the W-2 program. W-2 will be implemented statewide in September 1997.

Time limits reinforce the idea that AFDC is a temporary support for families, rather than a long-term source of income. Wisconsin's Work Not Welfare (WNW) demonstration project which is operating in Fond du Lac and Pierce Counties, has shown that time limits create a sense of urgency for families to actively seek alternatives to AFDC. Time limits stress mutual responsibility: government provides support and services designed to promote employment and participants who are able must prepare for and enter employment.

The rule defines the term "actively participating" in the JOBS program and includes criteria county or tribal economic support agency would use to determine whether an extension of the 60 month time limit should be granted. The Department retains the right to review an economic support agency's decisions related to extensions.

Publication Date: September 30, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 19, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Uniform Dwellings, Chs. ILHR 20-25)

Rules adopted revising chs. ILHR 20 and 21, relating to one- and two-family dwellings constructed in flood hazard zones.

Finding of Emergency

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of the rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

The Federal Emergency Management Agency (FEMA) has informed some municipalities that it will no longer allow variances to a local ordinance that prohibits the construction of homes in flood fringe areas where the foundation extends below the base flood elevation. FEMA regulations allow this type of construction in some locations but require the construction to meet a suitable building code. The Uniform Dwelling Code, which regulates new home construction in Wisconsin, has never addressed this issue. FEMA's actions have halted some residential projects, causing serious financial hardship for those affected Wisconsin builders and residents.

The proposed rules add requirements to the Uniform Dwelling Code for construction in flood fringe areas in order to meet FEMA requirements. The primary source of these rules is the National Building Code published by Building Officials and Code Administrators International, Incorporated (BOCA).

Publication Date: May 8, 1996
Effective Date: May 8, 1996
Expiration Date: October 5, 1996
Hearing Date: July 17, 1996
Extension Through: December 3, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Building & Heating, etc., Chs. ILHR 50–64)

(Multi-Family Dwellings, Ch. ILHR 66)

Rule adopted delaying the effective date of a rule revision to portions of **chs. ILHR 50 to 64 and 66**, relating to energy efficiency.

Note: A lawsuit has been filed challenging the validity of this emergency rule action.

Finding of Emergency

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

1. On August 8, 1995, the Department adopted revised rules relating to ventilation and energy conservation in public buildings and places of employment. The purpose of these rules was to improve indoor air quality in buildings and to comply with the federal Energy Policy Act of 1992 which requires all states to revise their commercial building codes to meet or exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society (ASHRAE/IES) standard 90.1–1989. The rules went into effect on April 1, 1996.

2. Information has been recently provided to the Department that indicates that two of the provisions of the rules will cause excessive costs for building owners without commensurate benefit.

3. The emergency rule is being promulgated to avoid economic hardship caused by imposing unnecessary building construction and operating costs on building owners and operators.

Emergency Rule Analysis

The emergency rule will delay the effective date of the Energy Conservation related and Heating, Ventilating and Air Conditioning related rules for one year to give the Department and its advisory committee time to study the effect of the rules and make any necessary changes.

Publication Date: April 6, 1996
Effective Date: April 6, 1996
Expiration Date: September 3, 1996
Hearing Date: May 28, 1996
Extension Through: November 1, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

[Workforce Development]

(Labor Standards, Chs. ILHR 270–279)

Rules adopted revising **ch. ILHR 272**, relating to the minimum wage.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

The minimum wage set by federal law will be raised to \$4.75 per hour effective October 1, 1996. The federal minimum wage covers

many but not all of the employers and employees in the state, and it is not always easy for a particular employer to know if it is covered by state or federal law. If the state did not act quickly to adjust its minimum wage rules in response to the change in federal law, many employers and employees would be subjected to confusion and uncertainty in the calculation and payment of wages.

Publication Date: August 28, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997

EMERGENCY RULES NOW IN EFFECT

Commissioner of Insurance

Rule adopted revising **s. Ins 18.07 (5) (b)**, relating to a decrease in 1996–97 premium rates for the health insurance risk-sharing plan.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5) (e), Stats., the commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

1996–97 Premium Adjustments

The Commissioner of Insurance, based on the recommendation of the Health Insurance Risk-Sharing Plan (“HIRSP”) board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles and must be set at 60% of HIRSP’s operating and administrative costs. This rule adjusts the premium rates for the period of October 1, 1996 through June 30, 1997, based upon a recalculation of costs and subsidy payments for the 1996–1997 fiscal year. This adjustment represents a 12% reduction in premium payments for the both the non-subsidized major medical and medicare plans for person under age 65. The rates for low-income persons entitled to a premium reduction under s. Ins 18.07 (5) (b) are not affected.

Publication Date: September 4, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 8, 1996

EMERGENCY RULES NOW IN EFFECT (6)

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

1. Rules adopted amending **s. NR 20.038**, relating to special size and bag limits for the Lac du Flambeau reservation.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The department has recently come to an interim agreement with the Lac du Flambeau band regarding their off-reservation harvest goals. This rule change is needed for the 1996 fishing season in order to meet our obligation in the agreement, thus, an Emergency Order is required. This agreement will promote preservation and protection of public peace, safety, and welfare in the ceded territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from

Lac Courte Oreilles v. Voight, 70 F. 2d 341 (7th Cir. 1983), the Chippewa bands of Wisconsin, which includes the Lac du Flambeau, have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting. The Lac du Flambeau have made initial 1996 harvest declarations for off-reservation lakes that are sufficiently high to require the department to reduce the daily bag limit to 0 on several lakes, consistent with the formula of s. NR 20.037. The Lac du Flambeau have agreed to reduce harvest declarations to a level commensurate with a daily bag limit of 2 walleye this year and a daily bag limit of 3 in future years, provided that the state reduces its daily bag limits for walleye to 3, with a minimum length limit of 18" and increase the muskellunge minimum length limit to 40" on waters within the Lac du Flambeau reservation. The state has agreed to do so in order to provide more socially acceptable sports fishing opportunity on off-reservation waters. This will lessen tensions caused by severely reduced bag limits and will assist local businesses dependent on the sport fishery.

Publication Date: May 3, 1996
Effective Date: May 3, 1996
Expiration Date: September 30, 1996
Hearing Date: June 12, 1996
Extension Through: November 28, 1996

2. Rules were adopted revising **chs. NR 10 and 11**, relating to the 1996 deer hunting seasons.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: May 3, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: June 11, 1996

3. Rules adopted amending **ss. NR 20.02 (1) (c) and 25.05 (1) (e)**, relating to sport and commercial fishing for yellow perch in lake Michigan.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

The yellow perch population in Lake Michigan is rapidly declining. This decline reflects six consecutive years of extremely poor reproduction. Sport and commercial harvests of adult yellow perch must be limited immediately in order to maximize the probability of good reproduction in the near future.

Publication Date: July 1, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Hearing Dates: August 14 & 15, 1996

4. Rules adopted revising emergency rules relating to the 1996 deer hunting seasons

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: August 9, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: September 12, 1996

5. Rules adopted revising **ch. NR 10**, relating to the 1996 migratory game bird season.

Finding of Emergency

The emergency rules procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: September 3, 1996
Effective Date: September 3, 1996
Expiration Date: January 31, 1997
Hearing Date: October 14, 1996

6. Rules adopted amending **s. NR 25.05 (1) (e)**, relating to sport and commercial fishing for yellow perch in Lake Michigan.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

The yellow perch population in Lake Michigan is rapidly declining. This decline reflects six consecutive years of extremely poor reproduction. Commercial harvests of adult yellow perch must be limited immediately in order to maximize the probability of good reproduction in the near future.

Publication Date: October 1, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 11, 1996

[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

1. Rules adopted revising **ch. PI 11**, relating to dispute resolution concerning children with exceptional educational needs between school boards and parents.

Finding of Emergency

Wisconsin is required under state and federal law to provide a due process hearing system for the resolution of special education disputes between parents and school districts. 1996 Wis. Act 431 will significantly revise that process and will require the department rather than school districts to conduct the due process hearings. Although the Act outlines the process, it does not fully describe the manner in which hearings are to be initiated, the manner in which hearing officers will be appointed, their qualifications and duties. The current rules addressing those issues will not apply under the new statutory process. It is, therefore, necessary to adopt an emergency rule addressing these issues so that the due process hearing system will remain available to parents and districts when the Act becomes effective.

Publication Date: June 25, 1996
Effective Date: June 25, 1996
Expiration Date: November 22, 1996
Hearing Dates: September 9 & 10, 1996

2. Rules were adopted revising **ch. PI 11**, relating to the handicapping condition of significant developmental delay.

Finding of Emergency

1995 Wis. Act 298 adds an alternative category of significant developmental delay for the identification of disabled preschoolers when the diagnosis is not clear. The Act becomes effective July 1 and requires the department to conduct inservice training for early childhood special education teachers and directors and pupil services personnel in identifying children with significant developmental delay to ensure that only children meeting the criteria established by the department by rule are so identified.

In order to establish identification criteria under the significant developmental delay category and in order to conduct the required training sessions prior to the 1996-97 school year, rules must be in place as soon as possible.

Publication Date: July 31, 1996
Effective Date: July 31, 1996
Expiration Date: December 28, 1996
Hearing Dates: September 9 & 10, 1996

EMERGENCY RULES NOW IN EFFECT

Securities

- Rules adopted creating **s. SEC 2.01 (1) (c) 5 and (d) 5**, relating to designating alternative accounting guidelines for the preparation of financial statements for certain governmental issuers of securities.

Finding of Emergency

The Office of the Commissioner of Securities for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health,

safety or welfare. A statement of the facts constituting the emergency follows:

A. Background Information Regarding Predecessor Emergency Rules Issued in 1982 and 1994.

Chapter 53, laws of 1981, took effect on January 1, 1982 and provided that the exemption from registration under s. 551.22 (1), Stats., for securities (other than revenue obligations) issued by any state or any local subdivision of the state or any agency or corporate or other instrumentality thereof, will be available "...only if the issuer's financial statements are prepared according to generally accepted accounting principles or guidelines which the commissioner designates by rule." The purpose of that statutory provision was to insure that financial statements prepared by governmental entities relating to their debt securities offerings are based on some recognized uniform accounting standards in order that a potential public investor can make a fully-informed and well-reasoned decision whether to purchase such debt securities.

As a result of the amendments created by Chapter 53, Laws of 1981, those governmental issuers of general obligation securities after January 1, 1982 that did not have their current financial statements prepared totally according to generally accepted accounting principles ("GAAP"), would not be able to utilize the securities registration exemption in s. 551.22 (1) (a), Stats., for the sale of their securities to the general investing public. Rather, those governmental issuers of such securities first would have had to obtain a registration which involves an extensive filing and review process under the Wisconsin Uniform Securities Law or, alternatively, make a regulatory filing under a registration exemption in order to offer the securities to the general public.

At the time the amendment to s. 551.22 (1) of the Stats., was enacted in 1982, many governmental issuers did not prepare their financial statements totally in accordance with GAAP. The result of the statutory change would have posed a hardship on those issuers of governmental general obligation securities subject to the full-GAAP financial statement requirement due to the time it would take for governmental issuers to be able to have their financial statements prepared totally according to GAAP.

To alleviate any disruption to the borrowing plans of governmental issuers of securities and the municipal securities marketplace, the Wisconsin Commissioner of Securities office promulgated emergency rules in 1982 that included the designation of alternative accounting guidelines (from full-GAAP) for the preparation of financial statements for certain governmental issuers of securities. The alternative (to full-GAAP) accounting guidelines were set forth by emergency rule in s. SEC 2.01 (1) (c) 2 and 3 for financial statements for fiscal years ending on or before December 31, 1985. [which was extended in later years by subsequent rule to December 31, 1990] which were either: (i) prepared in accordance with GAAP, but which were qualified for the fixed asset group or (ii) prepared in compliance with accounting guidelines or procedures mandated by state law or by rule of any state agency or recommended by any state agency. Additional emergency rule subsections under s. SEC 2.01 (1) (d) adopted in 1982 provided the method of determining accounting principles and guidelines.

Similar action to adopt emergency rules was taken in 1994 by the Commissioner of Securities Office after being informed by representatives of Wisconsin municipal/governmental securities issuers, bond attorneys and certified public accountant firms that the Governmental Accounting Standards Board ("GASB") had issued in June 1991 Statement No. 14: "The financial reporting entity." GASB Statement No. 14 requires that housing authorities and other types of authorities, commissions or boards of municipal/governmental entities (referred to as "component units") be included in the financial statements of the particular municipal/governmental entity in order for such financial statements to be considered "full-GAAP" without qualification. GASB Statement No. 14 became effective accounting periods beginning after December 31, 1992.

The parties who informed the Commissioner's Office regarding GASB Statement No. 14 stated that GASB Statement No. 14 would have an immediate, negative impact on the availability or use of the registration exemption in s. 551.22 (1) (a), Stats., by those

governmental/municipal securities issuers who had component units that would be subject to GASB Statement No. 14 and who heretofore have had their general purpose financial statements prepared in full compliance with GAAP. In particular, auditors for such municipal/governmental issuers with component units subject to GASB statement No. 14 generally would no longer be able to issue unqualified opinions for general purpose financial of municipal governmental issuers—namely, that such financial are prepared, totally and without qualification, on the basis of generally accepted accounting principles. Two areas of concern in that regard where identified by the auditor groups, and with respect to each of the two areas, although the auditors could include unaudited information regarding such component units in the governmental issuers' general purpose financial statements, the auditor's opinion would have to be qualified, thus precluding use of the s. 551.22 (1) (a) exemption on a self-executing basis for offers and sales of the governmental issuers' securities to the public.

Therefore, in similar fashion to emergency rule-making action taken by the agency in 1982, and for the purpose of alleviating disruption that would occur to the near-term borrowing/bonding plans of governmental issuers of securities claiming registration exemption status under s. 551.22 (1) (a), Stats., and because it would require a period of time for those governmental issuers to be able to have their financial statements prepared according to full-GAAP including the additional requirement under GASB Statement No. 14 (which necessitates having the audit report include all "component units" of a governmental/municipal issuer), the Office of the Wisconsin Commissioner of Securities, in consultation with representatives of municipal issuers, municipal bond dealers, financial advisors, bond attorneys and certified public accountant groups, promulgated emergency rules that: (i) designated (in current subpar. (c)2) as an alternative accounting guideline, GAAP but where the auditor's opinion is qualified with respect to the omission of component units required to be included by GASB Statement No. 14; (ii) designated (in current subpar. (c)3) as an alternative accounting guideline, GAAP but where the auditor's opinion is qualified with respect to the unaudited financial statements of an included component unit; and (iii) designated (in current subpar. (c)4) as an alternative accounting guideline, GAAP but where the auditor's opinion is qualified with respect to the general purpose financial statements for component units whose securities financial statements are not presented in accordance with generally accepted accounting principles, but which are included in the reporting entity in accordance with GASB Statement No. 14.

B. Recent Accounting Developments Warranting Present Emergency rule Treatment.

The Commissioner's Office was recently informed by representatives of various Wisconsin governmental securities issuers (principally with respect to Wisconsin public school district and Wisconsin vocational school district issuers of debt securities), bond attorneys, and certified public accounting firms that interpretations by the Governmental Accounting Standards Board ("GASB") through its staff with respect to accounting treatment for property tax recognition may cause many Wisconsin public school districts and vocational school districts to have the audit opinions for their financial statements qualified with respect to the deferral of taxes. The existence of a qualified audit opinion would preclude use of the s. 551.22 (1) (a), Stats., registration exemption on a use of the s. 551.22 (1) (a), Stats., registration exemption on a self-executing basis for offers and sales of a school district's debt securities to the public.

The specific accounting issue involves interpretation of the current accounting standard for property tax recognition established by the National Council on Governmental Accounting ("NCGA") Interpretation 3 "Revenue Recognition—Property Taxes." The accounting interpretation issue is presented as a result of the interplay of the following two factors: (1) most public school and

vocational school districts operate on (and their financial statements are prepared on) a July 1 to June 30 fiscal year; (2) the Wis. Statutes authorize the various Wisconsin local units of government to allow the payment of property taxes (which provide the funding for payment of public school and vocational school district debts and obligations) to be made in installments on January 1 and July 31 of a given year (for example 1996) relating to taxes levied (in the 1996 example given) for a school district's fiscal year extending from July 1, 1995 to June 30, 1996.

Because the July 31 date for payment of the second property tax installment is after the June 30 fiscal year for the school districts, the staff of the GASB in communications with representatives of Wisconsin accounting organizations and school district associations on the issue, set forth the GASB staff's view that the July 31 tax installment revenues may not be recognized for purposes for fiscal years ending the preceding June 30. As a result, auditors for Wisconsin public school districts and vocational school districts would need to show in such school districts' financial statements, deferred revenue for the July 31 installment property taxes. Despite requests for reconsideration, the GASB staff has not changed its position.

Such GASB staff interpretation has resulted in property tax revenue and fund balance amounts as shown in most Wisconsin school districts' audit reports being different from that required to be shown in such districts' Annual Reports and budget documents, thus causing confusion as to what a particular district's financial position actually is. The State of Wisconsin Department of Public Instruction believes that the GASB staff interpretation, in the context of the Wisconsin statutes governing the timing of property tax levies and payments, does not result in appropriate school district revenue and fund balance financial statement presentations.

As a consequence, Wisconsin public school and vocational school districts may be requesting that their external auditors prepare their district's audited financial without showing deferred revenue for uncollected property taxes—which may result in the auditor issuing a qualified opinion. The issuance of such a qualified audit opinion would preclude use of the s. 551.22 (1) (a), Stats., registration exemption on a self-executing basis for offers and sales in Wisconsin of the school district's debt securities to the public.

Therefore, in similar fashion to emergency rule-making action taken by the agency in 1982 and 1994, and for the purpose of alleviating disruption that would occur to the near-term borrowing/bonding plans of governmental school district issuers that regularly claim exemption status under s. 551.22 (1) (a), Stats., for the offer and sale in Wisconsin of their debt securities, the Office of the Wisconsin Commissioner of Securities, in consultation with representatives of school district issuers, bond attorneys and accounting groups, is adopting these emergency rules designating an alternative-to-full-GAAP financial statement provision to deal with this accounting issue to enable school district issuers to continue to use the exemption in s. 551.22 (1) (a), Stats., on a self-executing basis.

The emergency rule created in s. SEC 2.01 (1) (c)5 designates as a permitted alternative accounting guideline for purposes of use of the registration exemption in s. 551.22 (1) (a), Stats., GAAP, but where the auditor's opinions is qualified with respect to the recognition of property tax revenue. The emergency rule created in s. SEC 2.01 (1) (d)5 provides that the auditor's opinion with respect to the financial statements of a school district issuer covered by the emergency rule in s. SEC 2.01 (1) (c)5 must contain language corresponding to the qualification language in s. SEC 2.01 (1) (c)5.

Publication Date: June 24, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Hearing Date: September 4, 1996

EMERGENCY RULES NOW IN EFFECT***Transportation***

Rules adopted revising **ch. Trans 269**, relating to transportation of garbage or refuse permits.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, safety and welfare. A statement of the facts constituting the emergency is: Interstate status of this portion of

I-39 that had been USH 51 became effective upon completion of signage. Signage was completed on August 23, 1996. Without this emergency rule in place, overweight movement of garbage, which had been allowed, will no longer be allowed on this highway segment, while overweight movement of scrap will be allowed. This will force garbage trucks to move on surface streets, creating safety hazards for other traffic and creating economic hardship for garbage haulers (and municipalities which pay for garbage and refuse hauling), as there are no nearby detours paralleling this stretch of highway.

Publication Date:	September 9, 1996
Effective Date:	September 9, 1996
Expiration Date:	February 6, 1997
Hearing Date:	October 30, 1996

STATEMENTS OF SCOPE OF PROPOSED RULES

Chiropractic Examining Board

Subject:

Chir Code – Relating to continuing education requirements for chiropractors and approval of chiropractic continuing education sponsors and programs.

Description of policy issues:

Objective of the rule:

The objective of the rule is to clarify and update the continuing education requirements for chiropractors and the standards for continuing education sponsors and programs.

Policy analysis:

Rule revisions are needed to ensure that continuing education programs:

- 1) Are related to the chiropractic profession;
- 2) Reflect the necessary standards of the chiropractic postgraduate educational community; and
- 3) Effectively maintain standards of professional competency.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 446.02 (1) (b), Stats.

Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

5 hours

Commerce

Subject:

Ch. ILHR 27 – Relating to pier installation for manufactured homes.

Description of policy issues:

Description of the objective of the rule:

The objective of the rule is to prescribe minimum installation standards for pier installation of new manufactured homes.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

Because the rule will be new, there are no existing policies relevant to the rule. The new rule will be consistent with the standards for pier installation established by the American National Standards Institute and the manufactured housing industry trade organizations. Because the law specifies that the rule must be consistent with the standards indicated, there are no policy alternatives.

Statutory authority for the rule:

The statutory authority for the rule is section 101.92 (1m), Stats., as created by 1995 Wis. Act 362.

Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

The rule will be developed with the assistance of an 11-member citizen advisory committee, as specified in section 101.96, Stats., as amended by 1995 Wis. Act 362. Time will be spent forming the committee, meeting with the committee, and then drafting and processing the rule through public hearings and legislative review. An estimate of the amount of time that state employees will spend to develop the rule is as follows:

Research and committee meetings time	230 hours
Rule drafting time	40 hours
Rule promulgation time	120 hours
TOTAL	390 hours

Transportation

Subject:

Ch. Trans 76 – Relating to local transportation aids.

Description of policy issues:

Description of the objective of the rule:

The Department proposes to repeal and recreate ch. Trans 76, relating to local transportation aids. The current ch. Trans 76 is obsolete and no longer applicable. The proposed recreated ch. Trans 76, relating to general transportation aids, is intended to change the Department's long-standing and consistent interpretation of s. 86.303 (5) (f) (intro.) and (i) (intro.), Stats., specifically the phrases "within 30 days" and "each day." The Department's interpretation of these phrases has referred to each as calendar days. The proposed rulemaking will continue to interpret the phrase "within 30 days" as calendar days, but the phrase "each day" as working day—i.e., excluding Saturdays, Sundays and legal holidays.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

The General Transportation Aids (GTA) program is a program provided to defray a portion of the costs incurred with constructing and maintaining roads under local jurisdiction. The GTA program is a reimbursement program based on each local government's spending patterns. GTA funds are distributed to all Wisconsin counties and municipalities in amounts determined using a formula which is based on local "eligible costs."

The share of cost rate is determined by the available funding and the six-year average costs reported by each county and municipality. Distribution of GTA payments to local governments are computed and paid on a calendar year basis. Quarterly payments are made on the first Monday of January, April, July and October. The Department obtains cost data from Financial Reports which all local units of government must file annually with the Department of Revenue. The reports are based upon calendar year expenditures and revenues and are submitted each spring and summer.

By statute, failure to submit the Financial Report with the Department of Revenue by the deadline results in a reduction in GTA payments the following year. The reduction is equal to 1% for each day late, to a maximum of 10%, as provided by statute, s. 86.303 (5) (f) and (i), Stats.

As provided in s. 86.303 (5) (f) (intro.) and (i) (intro.), Stats., the Department proposes this rulemaking to administratively interpret the phrase "each day" to exclude Saturday, Sundays and legal holidays. The Department's long-standing and consistent interpretation of the phrases "within 30 days" and "each day" has been calendar days. The Department has concluded that it would be fairer and more reasonable to continue to interpret the phrase "within 30 days" as calendar days, but to exclude Saturdays, Sundays and legal holidays from the interpretation of the phrase "each day" for the purposes of the one percent reduction for each day that the report is late. The reason for this revised interpretation is that the 10% penalty cap can still be reached within 30 calendar days. Using this interpretation, timely reports and calculations will still be available for state and local budgeting and planning purposes.

Four local governments will be affected for 1997 GTA payments. These four local governments will receive a total of \$18,061.93 more based on less days of penalties. This does slightly affect the distribution of funds, but not the appropriation amounts.

Statutory authority for the rule:

Section 85.16, Stats.

Estimates of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Department staff estimates the time spent developing the rule to be approximately 40 hours, including research, drafting and holding the public hearing.

Workforce Development

Subject:

Ch. DWD 272 – Relating to the minimum wage.

Description of policy issues:

Description of the objective of the rule:

By emergency rule effective October 1, 1996, the state minimum wage has been raised to \$4.75 per hour in conformity with the minimum wage which applies to employers covered by the federal Fair Labor Standards Act. This rule would adopt this change on a permanent basis and make further corrective and updating changes to the current permanent minimum wage rule.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

The emergency rule raises the state's basic minimum wage from \$4.25 per hour to \$4.75 per hour, effective October 1, 1996. In addition, the rule repeals the current definition of "probationary employee" and adopts an opportunity wage (similar to the new federal law) which applies to employees under 20 years of age during the first 90 days of employment. The rule establishes the following wage rates for opportunity employees and agricultural workers:

Opportunity employee	\$4.25 per hour
Adult agricultural employee	\$4.55 per hour
Minor agricultural employee	\$4.20 per hour

In addition, there has also been a proportional adjustment of the rates used to assign a value to meals and lodging received as compensation. Additional issues that will be considered in connection with the permanent rule include:

- 1) Raising the minimum wage to \$5.15 per hour, effective September 1, 1997, and
- 2) Whether to make corrective changes to rule provisions relating to the minimum wage rates paid in rehabilitation facilities.

Statutory authority:

Section 104.04, Stats.

Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

It is estimated that no more than four state employees will be extensively involved in developing the rule, and, for each of these employees, the amount of time spent on the rule will be between 20 and 40 hours.

(20 x 4) = 80 hours (minimum)
(40 x 4) = 160 hours (maximum)

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

Please check the Bulletin of Proceedings for further information on a particular rule.

Agriculture, Trade & Consumer Protection

Rule Submittal Date

On October 10, 1996, the Wisconsin Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. ATPC 143, relating to the corn marketing order.

Agency Procedure for Promulgation

Public hearings are required. Five hearings will be held [See Notice this Register] after the Wisconsin Legislative Council Rules Clearinghouse completes its review of the proposed rule. The Division of Marketing is primarily responsible for promulgation of this rule.

Contact Person

If you have questions regarding this rule, you may contact Margaret Fay of the Division of Marketing at (608) 224-5140 or Attorney Karl Marquardt at (608) 224-5031.

Corrections

Rule Submittal Date

Notice is hereby given that, pursuant to s. 227.14 (4m), Stats., the Department of Corrections submitted the proposed s. DOC 313.025 to the Joint Legislative Council Staff.

Analysis

The proposed rule defines the meaning of "prison industry" as used in s. 303.01 (1) (c), Stats., which requires the Department of Corrections to give written notification to the cochairpersons of the Joint Committee on Finance prior to establishing any prison industry.

Agency Procedure for Promulgation

Public hearing is required.

Contact

The organizational unit primarily responsible for the promulgation of the rule is:

Office of Legal Counsel
Department of Corrections
P.O. Box 7925
MADISON, WI 53707-7925

Hearing and Speech Examining Board

Rule Submittal Date

On October 14, 1996, the Hearing and Speech Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ss. HAS 4.03, 5.02 (2) (f) and 6.09 (2) (t) and (u); creates ss. HAS 4.03 (2) and (3), 5.02 (2) (fm), 6.02 (4n) and 6.065, relating to calibration of audiometric equipment and the use of support personnel.

Agency Procedure for Promulgation

A public hearing is required, and will be held on December 2, 1996.

Contact Person

If you have questions regarding this rule, you may contact Pamela Haack, Rules Center Coordinator, at (608) 266-0495.

Medical Examining Board

Rule Submittal Date

On October 11, 1996, the Medical Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. Med 13 (title), and ss. Med 13.01, 13.02, 13.03 (1), 13.04 (title) and 13.04, 13.05 (1) (intro.), (1) (a), (2) and 13.06; and creates ss. Med 13.03 (1) (b) and 13.05 (1m), relating to continuing medical education for podiatrists.

Agency Procedure for Promulgation

A public hearing is required, and will be held on November 20, 1996.

Contact Person

If you have questions regarding this rule, you may contact Pamela Haack, Rules Center Coordinator, at (608) 266-0495.

Natural Resources

Rule Submittal Date

On October 11, 1996, the Department of Natural Resources submitted a proposed rule [WM-41-96] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 10 and 11, relating to sharp-tailed grouse hunting.

Agency Procedure for Promulgation

Public hearings are required, and will be held on November 13 and 14, 1996.

Contact Person

If you have questions regarding this rule, you may contact Todd Peterson, Bureau of Wildlife Management, at (608) 267-2948.

Natural Resources***Rule Submittal Date***

On October 11, 1996, the Department of Natural Resources submitted a proposed rule [FM-48-96] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 25, relating to commercial fishing for chubs and whitefish in Lake Michigan and Green Bay.

Agency Procedure for Promulgation

A public hearing is required, and will be held November 13, 1996.

Contact Person

If you have questions regarding this rule, you may contact Bill Horns, Bureau of Fisheries Management and Habitat Protection, at (608) 266-8782.

NOTICE SECTION

Notice of Hearing

Agriculture, Trade & Consumer Protection

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces it will hold a public hearing on its emergency rule (s. ATCP 139.04 (11)), relating to prohibiting the sale of butane, propane, and other flammable refrigerants for use in mobile air conditioning systems.

Hearing Information

The public hearing will be held:

November 15, 1996	Room 266
Friday	Dept. of Agriculture, Trade
1:30 p.m.	& Consumer Protection
	Prairie Oak State Office Bldg.
Handicapped	2811 Agriculture Dr.
Accessible	MADISON, WI

Written Comments

Public comment is being sought on the Department's emergency rule, pursuant to s. 227.24 (4), Stats., which requires that a public hearing be held within 45 days after an emergency rule is adopted. Following the public hearing, the hearing record will remain open until **November 27, 1996** to receive additional written comments.

An interpreter for the hearing-impaired will be available upon request for this public hearing. Please make reservations for a hearing interpreter by November 8, 1996 either by writing to Jamie Tukiendorf, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911 [telephone (608) 224-4924] or by calling the Department TDD at (608) 224-5058.

Analysis Prepared by the Dept. of Agriculture, Trade & Consumer Protection

Statutory authority: ss. 93.07 (1) and 100.37 (2)

Statute interpreted: s. 100.37

In order to protect the public from fire and explosion hazards, this emergency rule bans the sale of butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons for use as refrigerants in mobile air conditioners.

Hazardous Substances Law

The Department of Agriculture, Trade and Consumer Protection ("Department") regulates the sale and labeling of hazardous substances under s. 100.37, Stats. Section 100.37 (1), Stats., defines a hazardous substance to include any substance or mixture of substances which is flammable or combustible "if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use."

The hazardous substances law authorizes the Department to identify "hazardous substances" by rule. The Department may regulate "hazardous substances" in various ways. The Department may, by rule:

- Require precautionary labeling of hazardous substances.
- Restrict the use of hazardous ingredients.
- Prescribe package safety standards.
- Ban the sale of a hazardous substance if less restrictive alternatives are inadequate to protect public health and safety.

Current rules under ch. ATCP 139, Wis. Adm. Code, spell out packaging and labeling requirements for hazardous substances. Current rules also prohibit the sale of certain hazardous substances if there is a serious hazard that cannot be adequately addressed by other means.

Emergency Rule Contents

Emergency Rule Contents

This emergency rule lists, as "hazardous substances" under ch. ATCP 139, gaseous hydrocarbons intended for use as refrigerants in mobile air conditioners. It also prohibits the sale of those substances for use in mobile air conditioners because they pose a serious safety hazard which cannot be adequately addressed by labeling or other means. The prohibition does not apply to refrigerants which are properly labeled for specific end uses approved by the United States Environmental Protection Agency, and which meet recognized industry flammability standards for those end uses.

Emergency Rulemaking Order

SECTION 1. ATCP 139.04 (11) is created to read:

ATCP 139.04 (11) Substances containing butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons when sold or intended for use as refrigerants in mobile air conditioners, as defined under s. 100.45 (1) (b), Stats. This subsection does not apply to substances used as refrigerants which are properly labeled and intended for specific end uses approved by the United States environmental protection agency, and which meet recognized industry standards related to flammability for that specific end use.

Effective Date

The emergency rule contained in this order took effect upon publication on **October 9, 1996**, and shall remain in effect for 150 days. The Department may seek to extend this emergency rule as provided in s. 227.24, Stats.

Fiscal Estimate

This Department does not expect this emergency rule to have any fiscal effect. Any workload increase resulting from the rule will be absorbed by existing staff responsible for administering the Department's mobile air conditioning refrigerant use and recovery program.

Copies of Emergency Rule and Fiscal Estimate

A copy of this emergency rule and fiscal estimate can be obtained at no charge by making a request to:

Tom Stoebig, (608) 224-4944
Bureau of Consumer Protection
Dept. of Agriculture, Trade & Consumer Protection
2811 Agriculture Dr.
P.O. Box 8911
MADISON, WI 53708-8911

Initial Regulatory Flexibility Analysis

A regulatory flexibility analysis, as required under s. 227.114, Stats., will be prepared and published as part of a proposed permanent rule to create s. ATCP 139.04 (11), Wis. Adm. Code.

Notice of Hearings

Agriculture, Trade & Consumer Protection

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold five public hearings on amending the Corn Marketing Order (ch. ATCP 143). The proposed amendment increases the assessment rate under the corn marketing order from one-tenth of one cent (\$0.001) per bushel to one-half of one cent (\$0.005) per bushel.

Written Comments

The hearings will be held at the dates and places indicated below. The public is invited to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open for additional written comments until **December 20, 1996**.

Copies of Rule and Contact Person

A copy of the rule may be obtained, free of charge, from:

Marketing Order Program
Telephone 1 (800) 462-2765
Wis. Dept. of Agriculture, Trade & Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

Copies will also be available at the public hearings.

An interpreter for the hearing-impaired will be available upon request for these hearings. Please make reservations for a hearing interpreter by November 25, 1996 by contacting Margaret Fay at 1-800-462-2765 (Voice) or by contacting the Department at (608) 224-5058 (TDY Telephone).

Hearing Information

The hearings are scheduled as follows:

December 9, 1996

Monday

11:00 a.m. to
2:00 p.m.

Handicapped

Accessible

Room 106

Wis. Dept. of Agriculture,

Trade & Consumer Protection

Prairie Oak Office Bldg.

2811 Agriculture Dr.

MADISON, WI

December 10, 1996

Tuesday

11:00 a.m. to
2:00 p.m.

Handicapped

Accessible

Room UW-Cooperative Extension

Demonstration Center--First Floor

Rock Co. Courthouse

51 South Main Street

JANESVILLE, WI

December 11, 1996

Wednesday

11:00 a.m. to
2:00 p.m.

Handicapped

Accessible

Large Conference Room

DATCP--Eau Claire Regional Office

927 Loring St.

ALTOONA, WI

December 12, 1996

Thursday

11:00 a.m. to
2:00 p.m.

Handicapped

Accessible

Room 101 Classroom Bldg.

UW-Fond du Lac Center/

UW-Cooperative Extension

Campus Drive

FOND DU LAC, WI

December 13, 1996

Friday

11:00 a.m. to
2:00 p.m.

Handicapped

Accessible

UW Cooperative Extension--

Lower Level Conference Room

Iowa Co. Courthouse (New Addition)

222 North Iowa St.

DODGEVILLE, WI

Analysis

Statutory authority: ss. 96.05 and 96.08

Statute interpreted: s. 96.11

The proposed rule amends s. ATCP 143.06 (1) by increasing the assessment rate under the corn marketing order from one-tenth of one cent (\$0.001) per bushel to one-half of one cent (\$0.005) per bushel.

The proposed amendment must be approved by more than 50% of the affected corn producers voting in a referendum before the increased assessment rate becomes effective. If corn growers or affected producers approve the referendum, the Department intends to have the amended marketing order in effect in the fall of 1997 for the harvest and sale of corn grown in 1997 and subsequent years.

BACKGROUND

The corn marketing order (ch. ATCP 143, Wis. Adm. Code) was created in 1983 and requires all producers of corn sold into commercial channels to pay an assessment at the rate of one-tenth of one cent (\$0.001) per bushel. The funds are used for financing research, market development, and educational programs related to corn sales.

Each producer selling corn into commercial channels is liable for payment of the assessment under the corn marketing order. Handlers and dealers taking title to corn sold to them by producers are responsible for collecting the assessment from amounts due the producers. Under the marketing order, a producer may request a refund of the assessment which the producer paid into the marketing order.

The rate of assessment has not changed since the marketing order became effective on February 1, 1983.

The Wisconsin Corn Growers Association has petitioned the Department Secretary to amend the marketing order to increase the assessment rate to one-half of one cent (\$0.005) per bushel. The increase is projected to generate an additional \$400,000 in assessment revenue annually.

Fiscal Estimate

The Department would incur one-time costs of \$35,000 to cover administrative costs related to the rule amendment process. The Wisconsin Corn Growers Association has signed an agreement with the Department to fully reimburse the agency for the cost of adoption. There will be no net fiscal impact to the Department.

Initial Regulatory Flexibility Analysis

The proposed amendment will not have a significant economic impact on small businesses. The corn marketing order provides for a refund which enables a producer to receive a refund upon submitting proof satisfactory to the marketing board that the assessment for which the refund is requested has been paid.

Notice of Hearings

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.174 (2) (cm) 1. and 227.11 (2), Stats., interpreting s. 29.174 (1) and (2), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 10.01, 10.26 and 11.08, Wis. Adm. Code, relating to sharp-tailed grouse hunting.

Agency Analysis

The proposed rule establishes a sharp-tailed grouse hunting season through a limited permit system. Permits would be available only in sharp-tailed grouse hunting zones where populations could sustain hunting. Permit levels would be based on population size and hunter success rates.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Analysis

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearings will be held on:

November 13, 1996 Wednesday At 1:00 p.m.	Room 611B, GEF#2 101 South Webster St. MADISON, WI
November 14, 1996 Wednesday At 6:00 p.m.	Upstairs Conference Room State Patrol Headquarters SPOONER, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Todd Peterson at (608) 267-2948 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Todd Peterson
Bureau of Wildlife Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **November 15, 1996**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-41-96] and fiscal estimate may be obtained from Mr. Peterson.

Fiscal Estimate

The Department of Natural Resources is authorized to charge the \$3.00 permit fee for sharp-tailed grouse hunting permits.

The annual number of applicants will be approximately 300 (there were 272 free mandatory sharp-tailed grouse hunting report cards issued in 1995). This will generate \$900 in new revenues (300 x \$3.00 application fee).

The safe harvest level is estimated to range from 50 to 300 annually, assuming a 100% hunter success rate. Success rates are expected to range from 20–50%, resulting in 2–5 times that many carcass tags being issued. Increased annual costs are estimated at \$700. Permit printing and mailing will cost approximately \$200; data keying, permit winner selection, and distribution will be done in-house and will have no additional cost above that previously incurred by the mandatory hunter report card costs. Program administration and coordination will cost approximately \$500 in salary and fringe (24 hours at \$15 per hour salary).

There will also be approximately \$500 in one-time costs to develop maps of sharp-tailed grouse hunting zones. No increases in law enforcement activity are expected.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.085, 29.174 (3) and (4a), 29.33 (1), 227.11 (2) (a) and 227.24, Stats., interpreting ss. 29.085, 29.174 (2) (a) and 29.33 (1), Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. FM-47-96 (E), pertaining to commercial fishing for yellow perch in Lake Michigan. This emergency order took effect on **October 1, 1996**. The emergency rule closed the commercial fishing season for yellow perch in Lake Michigan.

Hearing Information

Notice is hereby further given that the hearing will be held on:

November 11, 1996
Monday
At 5:00 p.m.
Rooms 140-141
DNR Southeast Region Hdqrs.
2300 North Dr. M. L. King, Jr. Drive
MILWAUKEE, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the emergency rule may be submitted to:

Mr. William Horns
Bureau of Fisheries Mgmt. & Habitat Protection
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **November 11, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [FM-47-96 (E)] may be obtained from Mr. Horns.

Fiscal Estimate

Summary of Rule:

The Department is proposing revisions to the seasons and bag limits for yellow perch fishing in Lake Michigan. The rules being promulgated are based on biological and sociological findings and public comments and will have no adverse impact on the fisheries of the state. This proposal contains rule changes approved by the Natural Resources Board and the rules themselves will have no fiscal impact on either state or local units of government.

The procedure required to implement these rules will have a minor fiscal effect on state government, due to one-time costs for travel to hearings and printing hearing materials.

The following assumptions were made in order to arrive at the fiscal estimate for this rule change:

1. The proposed rules do not affect relations with local units of government or other state agencies.
2. No liability or revenue fluctuations are anticipated.
3. No staffing is required by state or local units of government.

4. State DNR law enforcement personnel will enforce these rules during the normal course of their duties.
5. No fee collection is involved with these rule changes.

Fiscal Impact:

None anticipated.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Notice is hereby given that pursuant to ss. 29.085, 29.174 (3), 29.33 (1) and 227.11 (2) (a), Stats., interpreting ss. 29.085, 29.174 (2) (a) and 29.33 (1), Stats., the Department of Natural Resources will hold a public hearing on revisions to ss. NR 25.02, 25.05, 25.06 and 25.07, Wis. Adm. Code, relating to commercial fishing for whitefish and chubs in Green Bay and Lake Michigan.

Agency Analysis

The proposed rule:

1. Redefines the northern chub fishing zone to close the Green Bay portion of the zone and expand the Lake Michigan portion of the zone.
2. Opens the northern chub fishing zone to chub fishing during the period from January 16 to the end of February, but limits fishing during that period to depths of 60 fathoms or deeper.
3. Transfers to the fall and winter harvest period for the northern chub fishing zone a portion of the harvest now allowed during the spring harvest period.
4. Increases the total allowable annual harvest of whitefish from zones 1, 2 and 3 from 1,450,000 pounds to 1,770,000 pounds.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.14, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. *Types of small businesses affected:* Licensed commercial fishers.
- b. *Description of reporting and bookkeeping procedures required:* No new procedures required.
- c. *Description of professional skills required:* No new skills required.

Environmental Analysis

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

November 13, 1996
Wednesday
At 3:30 p.m.
General Meeting Room A150
Door Co. Courthouse
421 Nebraska St.
STURGEON BAY, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Bill Horns
Bureau of Fisheries Mgmt. & Habitat Protection
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **November 21, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FM-48-96] and fiscal note may be obtained from Mr. Horns.

Fiscal Estimate

Summary of Proposed Rule Changes:

Sections 1, 2 and 4 pertain to commercial fishing for chubs. Section 1 closes to chub fishing the Green Bay portion of the northern chub fishing zone. Section 2 opens the northern chub fishing zone to chub fishing during the period from January 16 to the end of February. Section 4 transfers to the fall and winter harvest periods for the northern chub fishing zone a portion of the harvest now allowed during spring and summer harvest periods. Section 3 increases the annual total allowable commercial harvest of whitefish from zones 1, 2 and 3 from 1,450,000 to 1,770,000 pounds.

Fiscal Impact:

These rule changes will have no fiscal impact on either state or local units of government. The following assumptions were used in arriving at the fiscal estimate for these rule changes.

1. The proposed rules do not affect relations with local units of government or other state agencies.
2. No additional liability or revenue fluctuations are envisioned.
3. No additional staffing is required by state or local units of government.
4. State DNR law enforcement officers will enforce the rules in their normal course of duty.
5. No fee collection is involved in these rule changes.

Notice of Hearings

Natural Resources

(Environmental Protection--

Air Pollution Control, Chs. NR 400--)

(Environmental Protection--Solid &

Hazardous Waste Management,

Chs. NR 500--)

(Environmental Protection--Investigation

& Remediation of Environmental

Contamination, Chs. NR 700--)

Notice is hereby given that pursuant to ss. 144.31, 144.43 to 144.44, 144.42, 144.76 and 227.11 (2), Stats., interpreting ss. 144.31 to 144.38, 144.43 to 144.441, 144.442, 144.443 to 144.47 and 144.76, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 419, 518 and 718, Wis. Adm. Code, relating to remediation of soil contamination through landspreading.

Agency Analysis

Section NR 419.07 (4) is proposed to be amended to provide that in Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington and Waukesha counties, contaminated soil with a total organic compound concentration of more than 250 mg/kg may only be landspread on the property from which the soil was excavated unless the project has been approved by the Department under ch. NR 502 or 518, and to prohibit the operation of more than one landspreading facility on a property at any one time in all counties within the state.

Distinctions between landspreading of contaminated soil as proposed to be regulated in ch. NR 718, and as it is currently regulated in ch. NR 518, include:

1. Landspreading regulated under ch. NR 718 will be limited to single applications of contaminated soil on a landspreading facility.
2. Chapter NR 718 will allow responsible parties to landspread petroleum-contaminated soil without prior approval from the Department if the criteria specified in the rule are met.
3. Chapter NR 718 will not require that a plan review fee be assessed to the responsible party.
4. Chapter NR 518 will continue to regulate operations where contaminated soil is landspread more than one time.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.14, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Analysis

Notice is hereby further given that the Department has prepared an environmental analysis (EA) for these proposed rule changes. The Department's EA concluded, however, that the proposed changes to chs. NR 419, 518 and 718 do not constitute a major action which would significantly affect the quality of the human environment and, therefore, an environmental impact statement is not required under ch. NR 150, Wis. Adm. Code.

Hearing Information

Notice is hereby further given that the hearings will be held on:

November 11, 1996 Monday At 1:00 p.m.	Council Chambers Rhinelander City Hall 135 South Stevens RHINELANDER, WI
November 12, 1996 Tuesday At 9:00 a.m.	Room 2560 County Board Room Eau Claire Co. Courthouse 721 Oxford Ave. EAU CLAIRE, WI
November 12, 1996 Tuesday At 1:00 p.m.	Council Chambers Tomah City Hall 819 Superior Ave. TOMAH, WI
November 13, 1996 Wednesday At 10:00 a.m.	Council Chambers Janesville City Hall 18 North Jackson St. JANESVILLE, WI
November 14, 1996 Thursday At 9:00 a.m.	Council Chambers Manitowoc City Hall 817 Franklin St. MANITOWOC, WI
November 14, 1996 Thursday At 1:00 p.m.	Room 137A Dept. of Transportation 141 NW Barstow St. WAUKESHA, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Lawrence Lester at (608) 266-7596 with specific information on your request at least 10 days before the date of the scheduled hearing.

Public Comments/Alternatives Sought

The Department is specifically seeking comments from the public which address alternatives to the proposed limitation of single application landspreading in Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington and Waukesha counties to the property where the contaminated soil originated. The provision has been proposed in order to limit the volatilization of organic compounds in the area of the state where ozone attainment efforts are ongoing.

Copies of Rule and Contact Person

Written comments on the proposed rule changes, and on the EA, may be submitted to:

Lawrence J. Lester
Bureau of Remediation & Redevelopment
P.O. Box 7921
Madison, WI 53707-7921

Written comments must be received no later than **November 18, 1996**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule changes [SW-9-96], the EA and the fiscal estimate may be obtained from Mr. Lester at no charge.

Fiscal Estimate

Background:

Chapter NR 718 was created to address the storage, transportation, treatment and disposal of contaminated soil, and certain other solid wastes, generated at Emergency and Remedial Response Program (now the Remediation and Redevelopment Program) response actions conducted in accordance with the requirements of chs. NR 700 to 726. When ch. NR 718 became effective on May 15, 1995, the landspreading of all solid waste was regulated by the Solid Waste Program of the Bureau of Solid and Hazardous Waste Management (now the Bureau of Waste Management) under ch. NR 518.

As of June 15, 1995, single-application landspreading of contaminated soil excavated during response actions conducted in accordance with chs. NR 700 to 726 is overseen by district Remediation and Redevelopment Program staff under the authority of ch. NR 518. The proposed amendment to ch. NR 718 is intended to move the rule provisions that apply to single-application landspreading to ch. NR 718, to streamline the cleanup process by maintaining a single point of contact for cleanup actions where single-application landspreading is being pursued as a remedial option.

Fiscal Impact to State Government:

The amendment to ch. NR 718 does not create additional regulatory workload. No state fiscal impact is anticipated as a result of the amendment of ch. NR 718.

***NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF EACH HOUSE OF THE LEGISLATURE,
UNDER S. 227.19, STATS.***

Please check the Bulletin of Proceedings for further information on a particular rule.

Commerce (CR 95–69):

Ch. ILHR 202 – Relating to relocation assistance.

Commerce (CR 96–63):

Chs. ILHR 82 and 84 – Relating to plumbing plans and adopted standards.

Commerce (CR 96–100):

Chs. ILHR 20 and 21 – Relating to soil erosion at one- and two-family dwelling construction sites.

Health & Family Services (CR 96–93):

SS. HSS 172.04, 175.04, 178.05, 195.04, 196.04, 197.04 and 198.04 – Relating to permit fee increases for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels, motels and tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations.

Health & Family Services (CR 96–119):

SS. HSS 172.03 and 172.05 – Relating to operation of public swimming pools.

Natural Resources (CR 96–85):

Chs. NR 19, 21 and 22 – Relating to turtle harvest.

Natural Resources (CR 96–112):

SS. NR 20.03, 20.036, 20.13 and 20.18 – Relating to sturgeon spearing.

Natural Resources (CR 96–114):

SS. NR 20.02 and 25.05 – Relating to sport and commercial fishing for yellow perch in Lake Michigan.

Natural Resources (CR 96–116):

S. NR 20.08 – Relating to fishing tournament permitting.

Psychology Examining Board (CR 96–123):

SS. Psy 2.01, 2.015, 2.05 and 3.01 – Relating to transcripts of undergraduate training, passing scores on examinations, and abandonment of applications.

Public Instruction (CR 96–111):

SS. PI 11.02 (23) and 11.35 – Relating to the definition of handicapping conditions, including significant developmental delay.

Public Instruction (CR 96–121):

Ch. PI 11 – Relating to the method of resolving disputes concerning children with exceptional educational needs (EEN) between school boards and the parents of those children.

Securities—Financial Institutions (CR 96–143):

Chs. SEC 2, 3, 4, 5, 32, 33, 35 and 37 and ss. SEC 7.06, 9.01, 31.01 and 34.01 – Relating to:

- 1) Securities registration exemptions;
- 2) Securities registration procedures, substantive registration standards and disclosure requirements;
- 3) Securities broker–dealer, securities agent and securities investment adviser licensing requirements and procedures;
- 4) Franchise definitions;
- 5) Franchise registration exemptions;
- 6) Franchise registration procedures, substantive registration and disclosure requirements;
- 7) Franchise registration or exemption revocations and fraudulent practices;
- 8) Franchise fee–related provisions; and
- 9) Franchise forms.

Transportation (CR 96–70):

S. Trans 139.05 (8) – Relating to fee for title and registration processing contractors.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.

Agriculture, Trade & Consumer Protection (CR 96-2):

An order affecting s. ATCP 3.02 and ch. ATCP 50, relating to soil and water resource management.
Effective 12-01-96.

Natural Resources (CR 96-23):

An order affecting ss. NR 20.015, 20.03 and 21.04, relating to sport fishing.
Part effective 03-01-97.
Part effective 04-01-97.

Regulation & Licensing (CR 96-33):

An order amending s. RL 120.02 (intro.) and creating ch. RL 128, relating to education required for registered auctioneers to renew their registration for the biennium commencing on January 1, 1999.
Effective 12-01-96.

Social Workers, Marriage & Family Therapists and Professional Counselors Examining Board (CR 96-34):

An order amending s. SFC 2.01 (5) and creating s. SFC 3.13, relating to social worker training certificates.
Effective 12-01-96.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **October 31, 1996 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

For subscription information, contact Document Sales at (608) 266-3358.

Agriculture, Trade & Consumer Protection (CR 95-97):

An order affecting chs. ATPC 88 and 89, relating to egg grading, handling and labeling.
Effective 11-01-96.

Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board (CR 96-49):

An order affecting ss. A-E 3.05, 4.08, 5.04, 6.05, 9.05 and 10.05, relating to examination reviews.
Effective 11-01-96.

Barbering and Cosmetology Examining Board (CR 96-1):

An order creating s. BC 3.03 (5), relating to booth rental arrangements.
Effective 11-01-96.

Commerce (CR 95-228):

An order affecting chs. ILHR 2, 5, 7, 9, 10, 11, 17, 20, 26, 34, 41, 42, 45, 48, 50, 51, 66, 68, 74 and 81; and ss. ILHR 18.13, 27.20, 53.53, 67.07 and 82.21, relating to credentials, licenses, certifications and registrations administered by the Division of Safety and Buildings.
Effective 11-01-96.

Medical Examining Board (CR 96-47):

An order affecting ch. Med 8, relating to physician assistants.
Effective 11-01-96.

Natural Resources (CR 95-99):

An order repealing and recreating s. NR 46.30 (2) (a) to (c), relating to the administration of the Forest Crop Law and the Managed Forest Law.
Effective 11-01-96.

Natural Resources (CR 96-18):

An order affecting chs. NR 140, 724 and 726 and ss. NR 700.03 and 722.07, relating to the closure of hazardous substance spill cases where the Department has determined that naturally-occurring physical, chemical or biological processes will restore groundwater quality within a reasonable period of time.
Effective 11-01-96.

Nursing, Board of (CR 95-187):

An order affecting s. N 8.08, relating to requirements for malpractice insurance coverage for advanced practice nurse prescribers.
Effective 11-01-96.

Revenue (CR 96-53):

An order affecting s. Tax 11.69, relating to the Wisconsin sales and use tax treatment of sales and purchases by financial institutions.
Effective 11-01-96.

Revenue (CR 96-56):

An order repealing and recreating s. Tax 2.47, relating to the apportionment of net business incomes of interstate motor carriers.
Effective 01-01-97.

Savings Institutions, Division of (Financial Institutions) (CR 96-64):

An order amending s. SB 3.06 (1) (e), relating to increasing the maximum commercial loan aggregate which is authorized for an outside director of a savings bank.
Effective 11-01-96.

Savings Institutions, Division of (Financial Institutions) (CR 96-66):

An order amending s. SB 3.08 (4) (e), relating to the definition of "primary liquid assets" in the liquidity rule for savings banks.
Effective 11-01-96.

Transportation (CR 96-110):

An order creating s. Trans 102.22, relating to commercial driver's license (CDL) waivers for snowplow operators employed by local units of government with populations of less than 3000.
Effective 11-01-96.

Workforce Development (CR 96-36):

An order affecting chs. HSS 201 and 206, relating to participation of Aid to Families with Dependent Children (AFDC) applicants and recipients in the Pay for Performance (PFP) demonstration project.
Effective 11-01-96.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection

(CR 95-97)

Ch. ATPC 88 – Egg grading, handling and labeling.

Summary of Final Regulatory Flexibility Analysis:

This rule repeals and recreates rules under ch. ATPC 88, Wis. Adm. Code, related to egg grade and quality standards. Many of the requirements contained in the current rule are reorganized and updated. This rule also modifies and incorporates, into ch. ATPC 88, rules related to unfair trade practices in the egg industry currently under ch. ATPC 89.

New requirements for labeling egg cartons or containers by egg producers or packers with a “keep refrigerated” statement are expected to impose minimal one-time costs associated with plate changes. Many in the industry have already incorporated this statement on their packaging on a voluntary basis. Changes in equipment to print expiration dates or “use by” dates on individual cartons or containers may also be accomplished at minimal cost. Many in the industry are also including this information on their packaging at the current time.

The rule may impose some significant costs for small businesses such as egg producers, packers, and distributors to comply with the new temperature standards for the storage and transport of eggs. A used 8 ft. by 10 ft. insulated cooler/storage room with a cooling unit may start at approximately \$3,500. Mechanical refrigeration is recommended for eggs that are in transport for more than 4 hours. If implemented, used cooling units for vehicles may start at approximately \$1,100 for vans and \$4,000 for small (15ft.) delivery trucks. Costs will be higher for the purchase of new or larger cooler/storage rooms and trucks.

The rule increases the retention time for copies of receipts by dealers, but does not require any additional reporting or record keeping by small businesses.

No additional knowledge or professional skills are needed to meet the requirements of this rule.

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Agriculture, Transportation, Utilities and Financial Institutions on August 7, 1996 and to the Assembly Committee on Agriculture on August 7, 1996. The department received no comments or request for hearing from either committee.

2. Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors (CR 96-49)

Chs. A-E 3, 4, 5, 6, 9 and 10 – Examination reviews.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

3. Barbering and Cosmetology Examining Board

(CR 96-1)

S. BC 3.03 (5) – Booth rental arrangements.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules clarify the requirement that rental chairs or booths to practitioners operating as a separate business are subject to licensing as a separate establishment. Each licensed establishment must employ a licensed manager. Those individuals who are renting individual chairs or booths will be required to obtain a manager's license or hire or retain a person with a manager's license, as well as obtain a separate license for the rented chair or booth as a separate establishment.

Summary of Comments:

No comments were reported.

4. Department of Commerce (CR 95-228)

Ch. Comm 5 – Credentials.

Summary of Final Regulatory Flexibility Analysis:

To enhance public health, safety and welfare, people and businesses are either mandated or permitted to obtain specific licenses, certifications or registrations under chs. 101, 145 and 167 of the Wisconsin State Statutes. The credentials related to activities associated with the construction of buildings, structures or their components. The proposed rules of ch. Comm 5 establish minimum requirements for the qualifications and responsibilities for the various credentials; exceptions from compliance with the rules would be contrary to the overall statutory objectives of public health, safety and welfare.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs. No comments were received.

5. Medical Examining Board (CR 96-47)

Ch. Med 8 – Relating to physician assistants.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

6. Natural Resources (CR 96-18)

Chs. NR 140, 722, 724, 726 – Closure of hazardous substance spill cases.

Summary of Final Regulatory Flexibility Analysis:

The Department does not expect any negative impact on small businesses as a result of this action. It is anticipated that this action will save money for many responsible parties who conduct remediation of groundwater.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources and Urban Affairs. There were no comments.

7. Natural Resources (CR 96-84)

Ch. NR 46 – Administration of the forest crop law and the managed forest law.

Summary of Final Regulatory Flexibility Analysis:

This rule does affect small business. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. Existing compliance and reporting procedures are defined by statute. No new compliance and/or reporting requirements are imposed on small businesses as a result of this rule.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources and Urban Affairs. There were no comments.

8. Board of Nursing (CR 95-187)

S. N 8.08 (1) – Requirements for malpractice insurance coverage for advanced practice nurse prescribers.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

9. Department of Revenue (CR 96-053)

S. Tax 11.69 – Sales of personalized imprinted checks.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

10. Department of Revenue (CR 96-056)

S. Tax 2.47 – Apportionment of net business incomes of interstate motor carriers.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

11. Division of Savings Institutions (CR 96-64)

S. SB 3.06 (1) (e) – Increasing the maximum commercial loan aggregate which is authorized for an outside director of a savings bank.

Summary of Final Regulatory Flexibility Analysis:

This rule will provide all savings banks' outside directors — including savings banks covered by the definition of "small business" under s. 227.114 (1) (a), Stats., — with the maximum commercial loan authorization. Exempting small businesses from this rule would be contrary to the rule's objectives which are to encourage high calibre people to serve as outside directors of savings banks.

Summary of Comments:

No comments were reported.

12. Division of Savings Institutions (CR 96-66)

S. SB 3.08 (4) (e) – The definition of "primary liquid assets" in the liquidity rule for savings banks.

Summary of Final Regulatory Flexibility Analysis:

This rule will provide all savings banks — including savings banks covered by the definition of "small business" under s. 227.114 (1) (a), Stats., — with the requirements of maintaining sufficient liquidity to meet cash demands. exempting small businesses from this rule would be contrary to this objective of the rule.

Summary of Comments:

No comments were reported.

13. Department of Transportation (CR 96-110)

S. Trans 102.22 – CDL waivers for snowplow operators employed by local units of government with populations of less than 3000.

Summary of Final Regulatory Flexibility Analysis:

This rule will not impact small businesses.

Summary of Final Regulatory Flexibility Analysis:

No comments were reported.

14. Department of Workforce Development (CR 96-36)

Chs. HSS 201 and 206 – Participation of Aid to Families with Dependent Children (AFDC) Applicants and Recipients in the Pay for Performance (PFP) Demonstration Project.

Summary of Final Regulatory Flexibility Analysis:

These rules related to county and tribal administration of a federal-state program. They will not directly impact upon small businesses as defined in s. 227.114 (1) (a), Stats.

The rules were also reviewed by the Senate Committee. Language in s. HSS 206.06 (2) has been modified to clarify that ineligibility applies to applicants, while hourly or full sanctions apply to recipients.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee. No comments were received.

Senator Rod Moen requested clarification of language in s. HSS 206.065 (2) to specify that suspension of participation requirements may occur during the period of verification of incapacitation.

EXECUTIVE ORDERS

The following is a listing of recent Executive Orders issued by the Governor.

Executive Order 298. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Spiro T. Agnew, Former Vice President of the United States.

Executive Order 299. Relating to the Transfer of the Neurointerventional Angiography Program to the University of Wisconsin Hospitals and Clinics Authority.

N O T I C E O F N O N A C Q U I E S C E N C E

ROYAL TERRACE PARTNERSHIP, Petitioner,	:
v.	:
WISCONSIN DEPARTMENT OF REVENUE, Respondent,	:
Docket No. 95–M–13	:

Pursuant to sec. 73.01 (4) (e) 2, Stats., the respondent hereby gives notice that, although it is not appealing the Order of the Tax Appeals Commission rendered in the above-captioned matter under date of September 4, 1996, it has adopted a position of nonacquiescence in regard to that decision or order. The effect of this action is that, although the decision or order is binding on the parties for the instant case, the Commission’s conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the respondent in other cases.

THE STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOCUMENT SALES UNIT
P.O. BOX 7840
MADISON, WISCONSIN 53707-7840

First Class
U.S. POSTAGE PAID
Madison, Wisconsin
Permit Number 1369

First Class Mail

*Wisconsin
Administrative
Register*

DATED MATERIAL. PLEASE DO NOT DELAY!